

Federal Defenders  
OF NEW YORK, INC.

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November 12, 2009

Mr. Andrew Goldsmith, Esq.  
Assistant United States Attorney  
United States Attorney's Office  
271 Cadman Plaza East, 4<sup>th</sup> Floor  
Brooklyn, N.Y. 11201

Re: U.S.A. v. Archer and Rafique, 08-CR-288 (SJ)

Dear Mr. Goldsmith:

We are in receipt of the 3500 material provided on Wednesday, November 11, 2009. However, after review, we believe that there is additional material the defense is entitled to.

In our original discovery letter of July 21, 2009, we made the following demand:

“5. Please provide a list of witnesses the government intends to call at hearing or trial, and, and at a reasonable time prior to those witnesses’ testimony, please provide copies of prior statements of those witnesses or reports of agents or reports of any agency related to this case.

Please also provide the names and addresses of any person present during any part of the commission of any of the acts alleged in the indictment or complaint whom the government does not intend to call as a witness. Please also provide copies of any "letter agreements" entered into, or any other agreement made, between the government or its agents and any prospective witness offering assistance to the witness in obtaining leniency in any court, or lack of prosecution or arrest, or any other favorable treatment or consideration for the efforts made in connection with any aspect of this case by the witness.”

We continue to request a list of the witnesses the government intends to call at trial. We note that the government has provided, as 3500-ES-53, a copy of the affidavit in support of an arrest warrant for Mr. Sarvjit Singh. If Mr. Singh is going to appear at trial as a government witness, we respectfully request notice.

Second, it appears that several government witnesses were awarded grants of deferred action. Please see:

Nizar Ahmad, 3500-NA-5,  
Iris Ally, 3500-IA-3,  
Mohammed Ally, 3500-MA-4,  
Gulistan NLN, 3500-G-4

It appears that a grant of deferred action permits the recipient to remain in the United States for one year and obtain work authorization. It also appears that the grant can be extended. The notice of grant of deferred action makes reference (in the second paragraph) to "factors considered" in granting the deferred action. We believe that this grant of deferred action is an example of

"any other agreement made, between the government or its agents and any prospective witness offering assistance to the witness in obtaining leniency in any court, or lack of prosecution or arrest, or any other favorable treatment or consideration for the efforts made in connection with any aspect of this case by the witness."

We believe this is Giglio material therefore request copies of any applications for grants of deferred action, any memoranda associated with the decision to grant the deferred action, and any documents or notes detailing the decision making process in granting deferred action for these and any other government witnesses.

Sincerely,



Mildred M. Whalen  
Staff Attorney  
(718) 330-1290

cc: The Honorable Sterling Johnson  
Ms. Karina Alomar, Esq., via ECF  
ECF